

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Friends of Joe Baca and)
Joe Baca, as treasurer)

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CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Donald F. McGahn, II, General Counsel of the National Republican Congressional Committee. The Federal Election Commission ("Commission") found reason to believe that Friends of Joe Baca, and Joe Baca, as treasurer ("Respondents"), violated 2 U.S.C. §§ 441a(f), 441b(a), 434(a)(6)(A), (b)(4), and (b)(8).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Friends of Joe Baca is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized committee of Congressman Joe Baca.
2. William Smith was the treasurer of Friends of Joe Baca from December 17, 1996

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to September 6, 2000. Joe Baca has been the treasurer of the Friends of Joe Baca from September 2000 to the present.

3. The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits any person from making contributions "to any candidate and his authorized political committee with respect to any election for Federal office, which, in the aggregate, exceed \$1,000."

2 U.S.C. § 441a(a). In addition, the Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of this section. 2 U.S.C. § 441a(f).

4. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for corporations to make a contribution or expenditure in connection with any election for Federal office, "or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section."

5. The Act requires principal campaign committees of candidates for Federal office to notify in writing either the Secretary of the Senate or the Commission, as appropriate, and the Secretary of State of the appropriate state, of each contribution totaling \$1,000 or more, received by an authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A).

6. The Act requires all campaign debts and obligations to be reported in a committee's periodic disclosure filings. 2 U.S.C. § 434(b)(8). For as long as debts remain outstanding, a political committee is required to continuously report their existence until such time as they are extinguished. 11 C.F.R. § 104.11(a).

7. The Act also requires that the total amount of all campaign disbursements

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must be reported in a committee's periodic disclosure filings. 2 U.S.C. § 434(b)(4). "Purpose" means a brief statement or description as to the reasons for the expenditure. 11 C.F.R.

§ 104.3(b)(3)(i)(A).

8. On October 12, and 26, 1999, the Committee accepted an excessive contribution from the Keep the Seat Democratic Committee totaling \$6,575. The Committee refunded a total of \$4,575 on January 19, and 24, 2000, and amended its Pre-Runoff Report (9/2/99 - 10/27/99).

9. On October 26, 1999, the Committee accepted a \$500 contribution from the Inland Chapter of PORAC PAC, which was not a qualified Federal PAC, in the amount of \$500. The Committee returned this contribution on September 27, 2000, and reported the refund on its 2000 October Quarterly Report (7/1/00 - 9/30/00) filed on October 11, 2000. On October 26, 1999 and October 27, 1999, the Committee accepted two corporate contributions: one from Coors Distributing Company for \$500 and one from Saturn of Chino Valley for \$1,000. The Committee returned these contributions on October 13, 2000 and reported these refunds on its 12 Day Pre-Election Report (10/1/00-10/18/00) filed on October 22, 2000.

10. Among the contributions that Respondents received from November 3-8, 1999, were six contributions of \$1,000 or more totaling \$10,000. Respondents did not submit 48-Hour notices for these contributions until July 26, 2000.

11. The Committee omitted Schedule Ds in the Pre-Primary Report (1/1/00 - 2/16/00) and the April Quarterly Report (2/17/00 - 3/31/00). The Committee amended the Pre-Primary Report on August 25, 2000 and amended the April Quarterly Report on September 6, 2000.

12. The Committee omitted the purpose of disbursements in the Pre-Primary Report

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(1/1/00 - 2/16/00); the April Quarterly Report (2/17/00 - 3/31/00); and the July Quarterly Report (4/1/00 - 6/30/00). The Committee amended these reports on August 25 and September 8, 2000.

13. Respondents contend that with respect to the contribution referenced in Paragraph 8, the Committee used its best efforts to refund the contribution promptly. Respondents further contend that with respect to the omissions referenced in Paragraphs 11 and 12, the omissions were technical and not substantial, and that the amendments which included complete and accurate information promptly cured any defects.

V. 1. Respondents accepted an excessive contribution, in violation of 2 U.S.C. § 441a(f).

2. Respondents accepted prohibited corporate contributions, in violation of 2 U.S.C. § 441b(a).

3. Respondents failed to report campaign contributions of \$1,000 or more received from November 3-8, 1999, more than 48 hours before the general election, in violation of 2 U.S.C. § 434(a)(6)(A).

4. Respondents failed to include all campaign debts and obligations in its periodic disclosure filings, in violation of 2 U.S.C. § 434(b)(8).

5. Respondents failed to include the total amount of all campaign disbursements in its periodic disclosure filings, in violation of 2 U.S.C. § 434(b)(4).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Three Thousand Two Hundred dollars (\$3,200), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance

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with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda Vosdingh
Rhonda Vosdingh
Acting Associate General Counsel

10/2/01
Date

FOR THE RESPONDENTS:

Joe Brea
(Name)
(Position)

7-24-01
Date

DATE: 7/24/01
TIME: 10:00 AM

DATE: 7/24/01
TIME: 10:00 AM

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